

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RAQUEL REYNOLDS, a single person,

Plaintiff,

v.

CITY OF SEATTLE, et al.,

Defendants.

Case No. 2:21-CV-01560-RSM

ORDER GRANTING DEFENDANTS'
RULE 12(c) MOTION TO DISMISS

I. INTRODUCTION

This matter comes before the Court on Defendant City of Seattle's Rule 12(c) Motion to Dismiss filed on October 10, 2022. Dkt. #18. Pro se Plaintiff Raquel Reynolds¹ did not file a timely response, but she did file a letter several days after the deadline. Dkt. #20. The Court, in its discretion, will consider this letter as a timely response. Ms. Reynolds appears to have identified her letter as a cross motion in the Court's electronic filing system, but the letter does not move for any relief. Accordingly, the Court will not grant or deny Dkt. #20 and will remove it from the Court's Motion Calendar. As stated below, the Court GRANTS Defendant's Motion and dismisses this case.

II. FACTUAL BACKGROUND

¹ Plaintiff's latest filing refers to herself as Raquel Reynolds/Martinez. Because Plaintiff's sister is referenced as Maria Martinez, the Court will refer to Plaintiff simply as "Plaintiff" to avoid confusion.

1 For purposes of this 12(c) Motion, the Court will accept all facts in the Complaint, Dkt.
2 #4, as true. Unless stated otherwise, the following facts are drawn from that pleading. Facts
3 from materials attached to the Complaint by Plaintiff are also properly considered at this time.

4 On August 28, 2020, the police came to Plaintiff's residence to respond to a domestic
5 violence dispute between Plaintiff and her sister, Maria Martinez. That day, Plaintiff and her
6 brother Enrique entered the basement to throw away some items. After Plaintiff's brother had
7 left and as Plaintiff was leaving the basement carrying a small, empty box, Maria "suddenly
8 came running" into the back alley where a physical altercation ensued.

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10 Plaintiff and Maria each called 911. Each reported an assault by the other. Seattle
11 Police Department officers arrived shortly thereafter. Officer Cavinta spoke to Plaintiff first.
12 See Dkt. # 1-3 (SPD Incident Report attached to the Complaint) at 25. According to the
13 incident report, Plaintiff explained the history of her residential property dispute with Maria. *Id.*
14 She said she and Enrique (also present for the interview) arrived at the home to check on some
15 newly planted trees. Plaintiff told the officers that shortly after she emerged from the
16 basement, Maria rushed out of the house and attacked her. When asked to describe the assault,
17 Plaintiff gave "inconsistent" answers and "could not provide details." *Id.* Officer Cavinta
18 asked how Maria assaulted Plaintiff, and demonstrated a closed-fist punch, an open-palm slap,
19 and a hammer fist. Plaintiff denied being struck in any of these ways and, when asked to
20 demonstrate, "held her arm in a horizontal manner across and in front of her lower neck area,
21 but then she said she was not sure." *Id.* at 26. She also said that Maria pushed her, but that she
22 caught herself before she fell. *Id.* Plaintiff said that multiple people witnessed the assault but
23 that none of them were in the area when police arrived. *Id.* Officers did not observe any
24 injuries to Plaintiff. *Id.* When asked how Maria injured her, Plaintiff "said she previously had
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1 surgery on her neck” and Officer Cavinta did not observe any “fresh injuries, marks, scratches,
2 or redness on her throat area.” *Id.*

3 Officers then switched to questioning Maria. They observed a “scratch” on Maria
4 Martinez’s arm which Officer Cavinta described in his police report as a 3 to 4-inch abrasion to
5 the skin that was not bleeding. *Id.* Plaintiff submitted a photograph of Maria Martinez’s injury
6 as an attachment to her Complaint. Dkt. # 1-2 at 77. Maria told officer that she got this scratch
7 when Plaintiff grabbed and pulled on her arm during the struggle over the box. Dkt. #1-3 at 26.
8 Maria also complained of pain to her left wrist. *Id.* In his report, Officer Cavinta stated that
9 “Based on [Maria’s] narrative and the visible minor injuries and complaint of pain to her left
10 arm, there was probable cause to arrest [Plaintiff] as the primary aggressor for domestic
11 violence assault.” *Id.*

14 Plaintiff was placed in handcuffs. Officer Kira Guzman performed a “finger test” on
15 the handcuffs, ensuring that they were applied loosely enough that Guzman could fit one finger
16 between Plaintiff’s wrist and the cuff. Dkt. # 4 at 11. When Plaintiff complained of shoulder
17 and wrist pain, Officer Guzman offered to use two sets of handcuffs. After being handcuffed,
18 Plaintiff was placed in one of the officers’ patrol vehicles and later searched incident to the
19 arrest.
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21 After Plaintiff was arrested, the officers screened the arrest with Sergeant Scotty Bach.
22 During the screening, Plaintiff complained to Sergeant Bach of pain, but when he tried to
23 inspect her for injuries Plaintiff told him that there was nothing to see because the pain
24 stemmed from pre-existing conditions due to her neck injury. Dkt. #1-5 at 124. Sergeant Bach
25 asked if Plaintiff wanted to see the Seattle Fire Department and Plaintiff said that the Fire
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1 Department had already inspected her and there was nothing else they could do.² *Id.* She
 2 further stated, “I used to be married to a fucking police officer and you guys don’t even care.”
 3 *Id.* Sergeant Bach did not respond to this and instead offered to call an ambulance or get a
 4 nurse; Plaintiff declined those offers. *Id.*

5 Plaintiff was then sent to King County Jail and held overnight. She was released the
 6 next day without charges. Plaintiff later filed a complaint with Seattle’s Office of Police
 7 Accountability (“OPA”). *See id.* at 123-25. OPA’s investigation determined that Plaintiff’s
 8 arrest was supported by probable cause.

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 10 Plaintiff filed this lawsuit on November 16, 2021. Dkt. #1. She brings causes of action
 11 under § 1983 for violations of the Fourth and Fourteenth Amendments, emotional distress,
 12 assault and battery, and unlawful arrest. *See* Dkt. #4. In the Fourteenth Amendment Claim,
 13 she states that she was falsely labeled as “White” in the Police Report when she is Mexican. *Id.*
 14 at 16. She seeks over eight million dollars in damages. *Id.* at 21. The Court notes that the
 15 Complaint repeatedly points out that the incident occurred after Plaintiff had a rough recovery
 16 from COVID-19 and had lingering effects including nerve damage, and that Plaintiff has
 17 epilepsy.
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20 III. DISCUSSION

21 a. Legal Standard

22 “After the pleadings are closed – but within such time as not to delay the trial – any
 23 party may move for judgment on the pleadings.” Fed. R. Civ. P. 12(c). The standard governing
 24 a Rule 12(c) motion for judgment on the pleadings is essentially the same as that governing a
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28 ² Defendant points out that the Fire Department actually did not check on Plaintiff’s injuries on the day of the
 incident; this is uncontested by Plaintiff. *See* Dkt. #18 at 5.

1 Rule 12(b)(6) motion. *Dworkin v. Hustler Magazine Inc.*, 867 F.2d 1188, 1192 (9th Cir.1989);
 2 *McGlinchy v. Shell Chem. Co.*, 845 F.2d 802, 810 (9th Cir.1988)).

3 In making a Rule 12(b)(6) assessment, the court accepts all facts alleged by the non-
 4 moving party as true, and makes all inferences in the light most favorable to the non-moving
 5 party. *Baker v. Riverside County Office of Educ.*, 584 F.3d 821, 824 (9th Cir. 2009) (internal
 6 citations omitted). However, the court is not required to accept as true a “legal conclusion
 7 couched as a factual allegation.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl.*
 8 *Corp. v. Twombly*, 550 U.S. 544, 555 (2007)). The complaint or answer alleging counterclaims
 9 “must contain sufficient factual matter, accepted as true, to state a claim to relief that is
 10 plausible on its face.” *Id.* at 678. This requirement is met when the pleading party “pleads
 11 factual content that allows the court to draw the reasonable inference that the defendant is liable
 12 for the misconduct alleged.” *Id.* The complaint or answer need not include detailed allegations,
 13 but it must have “more than labels and conclusions, and a formulaic recitation of the elements
 14 of a cause of action will not do.” *Twombly*, 550 U.S. at 555. Absent facial plausibility, the
 15 pleading party’s claims must be dismissed. *Id.* at 570.

19 **b. Analysis**

20 Where officers have probable cause to arrest domestic violence suspects in Washington,
 21 they have a mandatory duty to do so under the state’s domestic violence statutes. *Donaldson v.*
 22 *City of Seattle*, 65 Wn. App. 661, 670, 831 P.2d 1098 (1992) (*rev. denied*, 120 Wn.2d 1031, 847
 23 P.2d 481 (1993)). Where both parties to a domestic violence incident claim to be the victim of
 24 an abuse not witnessed by the officers, officers are required to arrest the “primary physical
 25 aggressor.” RCW 10.31.100(2)(d). This statute directs officers to consider the following
 26 factors: (A) intent to protect victims of domestic violence; (B) the comparative extent of the
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1 parties' injuries or reasonable fear of injury; and (C) the domestic violence history of the
2 involved parties. *Id.*

3 Based on the factual record as pled by Plaintiff, including the attachments to the
4 Complaint, Plaintiff's claims that Defendant officers lacked probable cause to believe that
5 Plaintiff was the primary aggressor in a domestic violence incident are simply not plausible.
6 Plaintiff cannot deny that this was a domestic violence incident between family members.
7 Plaintiff's claims that the officers violated the Fourth Amendment is not plausible on its face as
8 the pleading shows they did what was required to ascertain the primary aggressor based on
9 conflicting stories and concrete observable evidence of injuries. It is not for this Court to decide
10 which of the sisters was actually the primary aggressor, as this is not a criminal action.
11 Criminal charges against Plaintiff were not pursued. Defendants' probable cause operates as a
12 complete defense to Plaintiff's Fourth Amendment claims. *See District of Columbia v. Wesby*,
13 138 S. Ct. 577, 586 (2018). Plaintiff's letter responding to this Motion offers nothing
14 substantive to contradict this legal conclusion. Accordingly, these claims are properly
15 dismissed.
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19 Plaintiff's Fourteenth Amendment Equal Protection claim fails because she has not
20 alleged any different treatment based on membership in a protected class. There simply is not
21 sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face.
22 Plaintiff's letter responding to this Motion fails to address this issue.
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24 Plaintiff's Complaint mentions "due process" only in passing. *See* Dkt. #4 at 16
25 ("Plaintiff was deprived of her liberty and property without due process of law."). This
26 formulaic recitation of law does not satisfy the *Twombly/Iqbal* test. Even if Plaintiff alleged
27 more, the Court agrees with Defendants that Plaintiff's pleading and the detailed attached
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1 records do not show a violation of procedural or substantive due process. *See* Dkt. #18 at 14–
2 16. Plaintiff’s letter responding to this Motion fails to address this issue.

3 Plaintiff appears to plead state law assault, battery, and unlawful arrest claims against
4 the Defendants. Defendants correctly point out that they are immune from such claims. Dkt.
5 #18 at 18 (citing RCW 10.99.070; *Feis v. King County Sheriff’s Dep’t*, 165 Wn. App. 525, 551,
6 267 P.3d 1022 (2011)).

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8 Given the above, the Court need not analyze Defendants’ qualified immunity arguments.

9 The Court notes that even if Plaintiff’s claims had merit, there are serious issues with
10 causation, and the amount sought for her injuries is grossly disproportional to the alleged
11 injuries that could be attributable to the actions of Defendants.

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13 Where a complaint is dismissed for failure to state a claim, “leave to amend should be
14 granted unless the court determines that the allegation of other facts consistent with the
15 challenged pleading could not possibly cure the deficiency.” *Schreiber Distrib. Co. v. Serv-*
16 *Well Furniture Co.*, 806 F.2d 1393, 1401 (9th Cir. 1986). Given the completeness of the record
17 and Plaintiff’s failure to address the above issues in responsive briefing, the Court finds that she
18 cannot allege other facts consistent with the challenged pleading to cure the above deficiencies.
19 Leave to amend will not be granted.

20 21 **IV. CONCLUSION**

22 Having reviewed the relevant briefing and the record, the Court hereby finds and
23 ORDERS that Defendants’ Motion to Dismiss, Dkt. #18, is GRANTED. Plaintiff’s Cross
24 Motion, Dkt. #20, is TERMINATED and will be removed from the Court’s Motion Calendar.
25 Plaintiff’s claims are DISMISSED. This case is CLOSED.

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2 DATED this 27th day of January, 2023.
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5 RICARDO S. MARTINEZ
6 UNITED STATES DISTRICT JUDGE
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